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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,503	06/20/2003	Ronald A. Klempner	AMMAR 3.0-001	5481
530	7590	06/17/2005	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/600,503

Applicant(s)

KLEMPNER, RONALD A.

Examiner

Gregory W. Adams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 33-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 1-32 are elected and claims 33-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 28, 2005 because applicant did not include arguments.

### *Drawings*

2. The drawings are objected to because in Fig. 6, reference character "6" refers to spacer means and in FIG. 1 to hinge means. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

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any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The disclosure is objected to because of the following informalities: With respect to reference character "12" refers to multiple structural elements, once on page 19, line 21 and once on page 20, line 9. Appropriate correction is required.

***Claim Objections***

4. Claims 1 & 2 are objected to because of the following informalities: Regarding claim 1, line 4, the language "can be" or "to provide" in claim 2, renders the claims indefinite as it is unclear whether the features subsequent to the "can be" language are a necessary part of the claimed invention. Claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Applicant must positively recite the features of the claimed invention. Examiner thus recommends eliminating all instances of "can be" as well as "to provide" from the claim language. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-4, 7, 16, 22, 23, 29-30 & 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regarding claims 2, 3, 4, 7, 22, 29, 30 & 32 the word "means" is preceded by the word(s) "wall", "spill skirt" and "ramp" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 16, the air plenum in Fig. 14 and described in the Specification page 26 is attached to the container 2. Should this be frame as claimed in claim 16? Also, it is not clear how the air plenum will create a negative air pressure within an enclosed container resting within the frame.

Regarding claim 22, it is unclear how the spill skirt means is flexible? Is it because of hinge means or is the spill skirt comprising flexible material, i.e. rubber?

Claim 23 recites the limitation "said tire stop means" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

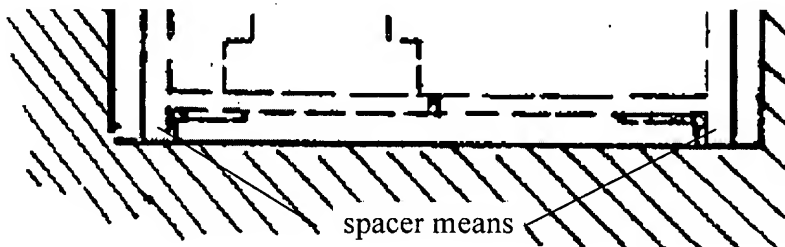
8. Claims 1-2, 4-8, 21-22, 24-26 & 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Harza (US 3,650,120).

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9. With respect to claim 1, Harza discloses an apparatus 160 comprising a frame 164 including frame walls 164, removable container 22 and container removal means 76, 102, 104.

10. With respect to claim 2, Harza discloses a wall means 16 in direct contact with a container 22.

11. With respect to claim 4, Harza discloses a wall means 164 comprising spacer means as shown in FIG. 7 below.



12. With respect to claim 5, Harza discloses a spacer means below a container bottom.

13. With respect to claim 6, Harza discloses a spacer means disposed between a container 22 and frame 164.

14. With respect to claim 7, Harza discloses a wall means 164 comprising angled wall 164.

15. With respect to claim 8, Harza discloses a frame 164 contains a frame upper end 164, and frame lower end 164, container upper end 22 and container lower end 22.

16. With respect to claim 21, Harza discloses a spill skirt means 166, 168 at frame upper end.

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17. With respect to claim 22, Harza discloses a spill skirt means 166, 168 at frame upper end with a flexible bottom portion. It is noted that Harza discloses flexing via hinge portion, which allows spill skirt 168 to flex downward depending on weight of the trash passing over spill skirt 168.
18. With respect to claim 24, Harza discloses a spreader 104 for lifting a container 22 out of a frame 164.
19. With respect to claim 25, Harza discloses a spreader 104.
20. With respect to claim 26, Harza discloses a container upper end 22 includes lock means 88.
21. With respect to claim 30, Harza discloses a frame 164 is above ground level and frame ramp means 162.
22. With respect to claim 31, Harza discloses leveling means 12. It is noted that Harza discloses leveling material via compression prior to placement within container 22.
23. With respect to claim 32, Harza discloses material handler means 102.

***Claim Rejections - 35 USC § 103***

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harza (US 3,650,120). Harza discloses a container but does not disclose 9 feet width,

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12-½ feet height, 10-½ feet width, railroad dimensioning, or 2730 cubic volume. Harza teaches varying container size based on monthly or daily material accumulations, and also depending on a residential application or commercial application. Col. 6, Ins. 10-20. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container of Harza to include 9 feet width, 12 ½ feet height, 10 ½ feet width, railroad dimensioning, or 2730 cubic volume, as per the teachings of Harza, to accommodate monthly or daily material accumulations, and also to conform to a residential application or commercial application.

26. Claims 3 & 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harza (US 3,650,120) in view of Yamamoto (US 3,882,591). Harza discloses wall means but does not disclose movable wall means. Yamamoto discloses a wall means 13 comprising two movable walls 15. Yamamoto teaches actuating movable wall means 15 to urge side and bottom frame walls 13 toward a container 4 in an amount to compensate for changes in container size brought on by temperature change. Col. 6, Ins. 26-65. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wall means of Harza to include movable wall means, as per the teachings of Yamamoto, such that side and bottom wall means may compensate for changes in container size.

27. Claims 9, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harza (US 3,650,120) in view of Felts (US 3,472,399). Harza does not disclose tire stop means. Felts teaches an apparatus comprising a frame 15 including frame walls 14-21, removable container TT and container removal means TT, and tire stop means 47



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extending from a spill skirt means top 19, 37 for stopping a reversing vehicle prior to dumping into a below ground 12 removable container T.T. Col. 1, Ins. 10-50. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Harza to include tire stop means, as per the teachings of Felts, such that stopping a reversing vehicle prior to dumping.

28. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harza (US 3,650,120) in view of Erickson et al. (US 4,946,068). Harza does not disclose a scale. Erickson et al. disclose a scale 40 disposed at said lower end of said frame 39 for safety improvement by electronically determining a weight of a loaded container 400 and corresponding delivery destination of a loaded container 400 prior to movement by a container removal means 58 from a frame 43, 45. Col. Ins. 1 through 40. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Harza to include a scale, as per the teachings of Erickson et al., to electronically determine a loaded container weight and destination for a loaded container prior to movement by a container removal means from a frame.

29. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harza (US 3,650,120) in view of Mirowsky et al. (US 6,372,131). Harza does not disclose a perforated pipe air plenum. Mirowski et al. disclose an air plenum 237 comprising perforated pipe at a frame upper end to run around a container 200, fan 229, and filter 231. Mirowsky et al. teach an air plenum for waste treatment systems having odor problems, and, more specifically to waste treatment systems which may be adaptable to closed covers. Col. 1, Ins. 6-62. Therefore, it would have been obvious to

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one having ordinary skill in the art at the time the invention was made to modify the apparatus of Harza to include an air plenum, fan and filter, as per the teachings of Mirowsky, to treat odor problems during waste treatment.

30. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harza (US 3,650,120) in view of Teeny (US 5,110,055). Harza does not disclose a leachate system. Teeny discloses a leachate system 58, 26, 32 at frame lower end 44 for conducting contaminated waste product from a container wherein the contaminate may be further cleaned and/or disposed. Col. 4, Ins. 60-69. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Harza to include a leachate system, as per the teachings of Teeny, for conducting contaminated waste product from a container wherein the contaminate may be further cleaned and/or disposed.

31. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harza (US 3,650,120) and Yamamoto (US 3,882,591) in view of Everard et al. (US 5,142,717). Harza discloses spacer means but does not disclose an inflatable air bladder. Everard et al. disclose inflatable air bladder 10 to support an external load and maintain the air pressure within a chamber at a relatively constant preset level when the load is applied thereto. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Harza to include inflatable air bladder, as per the teachings of Everard et al., to support an external load and maintain the air pressure within a chamber at a relatively constant preset level when the load is applied thereto.

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32. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harza (US 3,650,120) in view of Nijenhuis (US 4,832,561). Harza discloses a spill skirt means 166, 168 and spill skirt hinge means, but does not disclose a spill skirt on three sides. Nijenhuis discloses a spill skirt means 5, 14, 17, 30 along at least three sides, overlapping a fill opening, "thus avoiding the possibility of trash falling over the edge of the silo opening." Col. 2, Ins. 23-39. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the spill skirt means of Harza to include a spill skirt on three sides, as per the teachings of Nijenhuis, to prevent trash from missing the silo opening and falling over the edge.

### ***Conclusion***

33. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6286707 for Hall et al.

US 5,972,291 for Healy et al.

US 5,495,695 and 5,778,608 for Elliot, Jr.

US 5,664,911 for Bridges et al.

US 5,048,703 for Tax et al.

US 4,358,238 for Ely

US 3,962,965 for Corompt

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA

 6/13/05  
DEAN J. KRAMER  
PRIMARY EXAMINER